

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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Nos. 05-11883 & 05-13986

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BIA Nos. A95 246 684 & A95-247-442

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT OCTOBER 20, 2006 THOMAS K. KAHN CLERK
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SHAHZAD NOORANI,

Petitioner,

versus

UNITED STATES ATTORNEY GENERAL,

Respondent.

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Petitions for Review of a Decision of the  
Board of Immigration Appeals

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**(October 20, 2006)**

Before ANDERSON, HULL and CUDAHY,\* Circuit Judges.

PER CURIAM:

Shahzad Noorani petitions for review of the decision of the Board of

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\* Honorable Richard D. Cudahy, United States Circuit Judge for the Seventh Circuit,  
sitting by designation

Appeals (“BIA”) affirming the Immigration Judge’s (“IJ”) denial of a continuance. He also appeals the BIA’s denial of his motion to reconsider. We review the denial of a motion for continuance for abuse of discretion, see Olvera v. INS, 504 F.2d 1372, 1374 (5th Cir. 1974), and denial of motion to reconsider for abuse of discretion, see Ass’ad v. U.S. Attorney General, 332 F.3d 1321, 1341 (11th Cir. 2003).

On appeal, Noorani argues that the IJ abused its discretion when it denied his motion for a continuance because by having an approved labor certification, he was eligible for adjustment under INA § 245(i), 8 U.S.C. §1255(i). Noorani also had an approved I-140 but withdrew it before the government decided his pending I-485 petition. His new employer submitted a letter, asking to be substituted for a previous employer upon whose employment offer the I-140 had been granted. Noorani argues that he inadvertently withdrew his application for the I-485 but tried to reinstate it.

We vacate the BIA’s opinion and remand for reconsideration in light of Merchant v. U.S. Attorney General, 461 F.3d 1375 (11th Cir. 2006), Zafar v. U.S. Attorney General, 461 F.3d 1357 (11th Cir. 2006), and Ugokwe v. U.S. Attorney General, 453 F.3d 1325 (11th Cir. 2006). Also, it is unclear from the record whether or not Noorani had validly filed I-140 and I-485 petitions pending. In

addition to reconsidering this case in light of Merchant, Zafar, and Ugokwe, the BIA and/or IJ may determine the status of Noorani's filings.

**VACATED and REMANDED.**